

esters and the analogous phosphonates. Removal of this ground of rejection is therefore requested.

The word "about" before "10%" in subparagraph (b) of Claim 1 has been removed to overcome the rejection under the second paragraph of Section 112.

In Claims 7 and 8, the phrase "on a number average basis" is intended to indicate that "n", which is clearly a number, is an averaged value of all the species that might be present. It is common for a variety of differing species having differing individual "n" values to be present and the resulting averaged "n" value can be a non-integer, e.g. 3.7, within the claimed range of 2 to 20.

The term "about" has been removed from Claims 7 and 8 to remove any ambiguity in regard to the upper value of 20 for "n".

Claims 7 and 8 have also had the words "can range" changed to "ranges" to overcome the Examiner's specific objection to the presence of the word "can".

The rejection under the second paragraph of Section 112 based upon the broad claiming of "alkyl" and "alkylene" in Claim 7 by the applicants without specifying a numerical range is respectfully traversed. The person of ordinary skill in the art would realize that these Claims are intended to cover any such group that can be

selected and utilized in making the depicted oligomeric materials. There is nothing indefinite in that regard in what Claim 7 expresses. Also, since the essence of the present invention does not hinge upon the number of carbon atoms in the alkyl or alkylene groups in such depicted oligomeric materials, there appears to be little reason for the Office to require an express limitation of such groups in Claim 7. Removal of this ground of rejection is therefore requested.

Claim 8 has been amended to insert "respectively" after "ethylene" as suggested by the Examiner.

Claim 1 has been amended to recite that the flame retardant combination is one "consisting essentially of" the two recited flame retardants, which are both clearly organic in nature, rather than being inorganic. This amendment closes the pending Claims to the presence of significant amounts of an inorganic material, such as alumina trihydrate. The cited European Patent publication (EP 255,381), which forms the basis of the rejection in paragraph 5 on page 4 of the Office Action, requires, at page 3, lines 39-50, that its flame retardant combination comprises from 50% to 58% of alumina trihydrate. In view of this amendment, it is requested that the Examiner remove his reliance upon this EP citation and remove the rejection that is set forth in paragraph 5 of the Office Action as

well as the rejection in paragraphs 9-10 of the Office Action which also rely upon this reference as a primary citation.

In order to distinguish over the other cited European patent publication (EP 428,221), which forms the basis of the rejection described in paragraph 6 on page 4 of the Office Action, Claim 1 has been amended to require that the non-oligomeric flame retardant be "alkyl group-containing". This rules out the presence of triphenyl phosphate, which EP 428,221 requires, since that species is clearly devoid of any alkyl group. All of its substituents are phenyl. In view of this amendment, it is requested that the Examiner remove his reliance upon this EP citation and remove the rejection that is set forth in paragraph 6 of the Office Action as well as the rejection in paragraphs 9-10 of the Office Action which also rely upon this reference as a primary citation.

The final remaining ground of rejection, which combines the Hardy and Eckel patents (Section 103), is respectfully traversed for the reasons that follow:

- The Hardy patent, as the Examiner has recognized, contains absolutely no suggestion of blending a non-oligomeric, non-halogenated, alkyl group-containing organophosphorus flame

retardant with an oligomeric flame retardant of the type defined in subparagraph (b) of Claim 1. Hardy only teaches using a single organophosphorus flame retardant having the formula depicted, for example, in Col. 2, lines 50-62 of Hardy. While the definition of "n" in that structural formula can vary widely (from 0 to about 10) there is no hint given by this patent that a particular selection is to be made so that the applicants' claimed flame retardant system would result: namely, $n = 0$ and $n = 2-10$! Hardy is clearly insufficient as a basis for this rejection.

- The secondary art to Eckel would not have been selected by the person of ordinary skill in the art to modify Hardy so as to be suggestive of the present invention as the Examiner maintains. Eckel is solely concerned with flame retarding a vastly different polymer system: polycarbonate/ABS. The polycarbonate/ABS "moulding compounds" of Eckel are neither polyurethanes nor foams¹ so as to suggest anything that would be relevant to the vastly differing Hardy system except through an improper

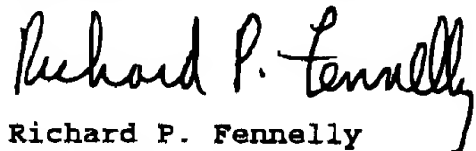
¹ For example, "computer equipment casing parts", as mentioned at Col. 1, lines 57-58 of Eckel, are certainly not made of polyurethane foam!

hindsight reconstruction of the cited art using the present application as a guide.

For the reasons just given, it is requested that the obviousness rejection of Claims 1-3 and 5-8 using Hardy and Eckel be removed.

Allowance of Claims 1-8 is requested in view of the amendments and comments contained herein.

Respectfully submitted,



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